

Applicant : John C. Nardi
Serial No. : 09/213,544
Filed : December 17, 1998
For : Alkaline Cell Having a Cathode Incorporating Enhanced Graphite

Art Unit: 1745
Examiner: C. Chaney

REMARKS

Claims 1-13 and 15-21 are pending in the application. Reconsideration and reexamination of the application are respectfully requested.

In the Office action mailed on February 26, 2004, the Examiner rejected all claims pending in the application under 35 USC § 112, 1st paragraph, as failing to comply with the enablement requirement because the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner asserted that, since an expanded graphite with a kerosene absorption value between 2.2 and 3.5 ml/g is essential to the invention, kerosene absorption is not an inherent property and differences in parameters or processing conditions could not be correlated with the differences in kerosene absorption values of samples S1-S17, the specification fails to provide one of ordinary skill in the art with guidance as to factors which control the kerosene absorption of expanded graphites. Applicant disagrees for the reasons stated below.

The undersigned would like to thank the Examiner for the courtesies extended during a telephone interview on May 19, 2004, during which the rejection under 35 USC § 112, 1st paragraph, was discussed. A summary of that interview is being submitted herewith. The Examiner indicated that a declaration containing facts supporting Applicant's position would be helpful in traversing the rejection.

The enable requirement in 35 USC § 112, 1st paragraph, is that the specification contain a written description of the manner and process of making and using the invention is such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same. The invention pertains to the art of electrochemical cells, not to the art of making expanded graphites. Therefore, disclosure of the differences in parameters or processing conditions that can be correlated with the differences in kerosene absorption values for samples S1-S17 is not essential to meet the requirement for enablement. To practice the present invention, one skilled in the art of electrochemical cells could ask expanded graphite manufacturers to supply expanded graphite

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having a kerosene absorption value within the range of 2.2-3.5 ml/g and provide them with the method of determining the kerosene absorption value, as disclosed in the specification.

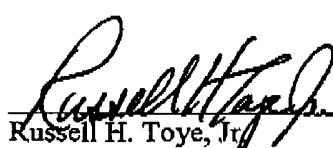
After the present application was filed, Applicant contacted three expanded graphite manufacturers, different from the manufacturer that supplied samples S1-S17, and requested samples of expanded graphite with certain specified characteristics, including a kerosene absorption value within the range of 2.2-3.5 ml/g. He provided each manufacturer with the kerosene absorption test method. As stated in Applicant's Declaration, submitted herewith, all three of those manufacturers provided samples of expanded graphite having kerosene absorption values within the specified range. This demonstrates that it is within the ability of those skilled in the art of manufacturing expanded graphite to make expanded graphite having the required kerosene absorption characteristic without the benefit of knowing the correlation between the kerosene absorption values and the parameters or processing conditions used to make samples S1-S17, and that one skilled in the art of electrochemical cells can readily obtain such material.

For the above reasons, the written description of the present application sufficiently discloses the manner and process of making and using the invention to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, as required in 35 USC § 112, 1st paragraph.

It is believed that the application is in condition for allowance. Withdrawal of the rejection and allowance of claims 1-13 and 15-21 are requested.

Respectfully submitted,

Date: 5/20/04


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